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8 *Attorneys for the County of Santa Barbara,
9 California; Harry E. Hagen, as Treasurer-Tax
10 Collector of the County of Santa Barbara,
11 California; and Santa Barbara County Air
12 Pollution Control District*

13 UNITED STATES BANKRUPTCY COURT
14 CENTRAL DISTRICT OF CALIFORNIA
15 SANTA BARBARA DIVISION

16 In re:

17 HVI Cat Canyon, Inc.,

18 Debtor.

Case No.: 9:19-bk-11573-MB

Chapter 11

**DECLARATION OF BRYAN
FIEBERT IN SUPPORT OF DKT.
NOS. 153 & 206**

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21 I, Bryan Fiebert, declare as follows:

22 1. I am the Operations Manager for Harry E. Hagen, Treasurer-Tax
23 Collector of the County of Santa Barbara (Treasurer-Tax Collector),¹ and I have
24 personal knowledge of the matters stated herein.
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28 ¹ The Treasurer-Tax Collector does not submit to the jurisdiction of the Court for
determination of HVI Cat Canyon, Inc.'s ("HVI") tax liabilities.

1 2. Santa Barbara County is a political subdivision of the State of California
2 which possesses the authority to assess and collect ad valorem taxes on real and
3 personal property. The Treasurer-Tax Collector is the duly-elected official with
4 responsibility for collecting the property taxes.
5

6 3. In addition to prior year taxes, HVI now owes to the Treasurer-Tax
7 Collector secured property taxes for the 2019-2020 tax year of \$696,556.64. *See*
8 attached tax bills as Exhibit SB-10. These taxes are invoiced and due post-petition
9 (that is, after HVI's July 25, 2019 bankruptcy filing).
10

11 4. No taxes have been paid to the Treasurer-Tax Collector since the
12 bankruptcy filing on July 25, 2019.
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14 5. HVI has a history of not paying its taxes to the Treasurer-Tax Collector.
15 As of September 26, 2019, HVI owed \$4,810,387.36 in property taxes, penalties,
16 costs, and interest. *See* attached listing of outstanding delinquent bills as Exhibit SB-
17 11. All but \$19,717.54 of the \$4,810,387.36 taxes were based on assessments on
18 the "secured roll" and constitute a lien on HVI's real property.
19

20 6. There is a procedure whereby property taxes initially billed as Secured
21 subsequently get billed as "Unsecured" for collection purposes, and this has occurred
22 annually for HVI's delinquent secured property tax bills. However, the Treasurer-
23 Tax Collector did not relinquish his lien upon HVI's real property, nor did the
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1 Assessor ever remove HVI's property from the secured tax roll. A portion of HVI's
2 secured taxes were transferred to the "unsecured roll" solely in order to expand the
3 collection options against HVI Cat Canyon, Inc. In no way did this eliminate the
4 Treasurer-Tax Collector's tax lien against the debtor's property, or his authority to
5 exercise his lien rights against that property.
6

7
8 7. The Treasurer-Tax Collector never relinquished his lien rights against
9 the property. HVI's bankruptcy schedules [Dkt. 171] incorrectly show the ad valorem
10 taxes owed to the Treasurer-Tax Collector of the County of Santa Barbara are
11 \$4,654,443.79 on the petition date.
12

13 8. HVI's assertion in its schedules that it owes the County \$1,303,358.37
14 for "secured claim" taxes and \$3,351,085.42 for "unsecured claim" taxes, for the total
15 of \$4,654,443.79 is also wrong. As of September 26, 2019, the amount owed is
16 \$4,810,387.36 and all but \$19,717.54 of the \$4,810,387.36 taxes owed for tax year
17 2018-2019 and prior years were based on assessments on the "secured roll." The
18 \$19,717.54 consists of personal property taxes plus penalties and interest that accrued.
19 Please note penalties and interest continue to accrue on delinquent taxes until the debt
20 is paid.
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24 9. The Treasurer-Tax Collector has not consented and does not consent,
25 under 11 U.S.C. 363(c)(2)(A) or otherwise, to any interim or final cash collateral
26 orders that do not provide for the payment of the taxes, penalties, costs, and interest
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1 owed to the County. The past, current, and future taxes owed to the County are liens
2 which cannot be avoided by the debtor's bankruptcy.

3
4 10. Affiliates of HVI also have not been paying their ad valorem taxes. As
5 examples, California Asphalt Production, Inc. (CAP), Greka Land Holdings, LLC,
6 and GSR, LLC collectively owe \$628,935.87 in back property taxes as of August 1,
7 2019.

8
9 11. The exhibits attached hereto (1) were made at or near the time of the act,
10 event, or conditions stated therein by, or from information transmitted by, someone
11 with knowledge of the facts, (2) the records were kept in the course of the regularly
12 conducted activity of the Treasurer-Tax Collector, and (3) the records were made as
13 part of the regular practice of the Treasurer-Tax Collector.
14

15
16 I declare under penalty of perjury under the laws of the United States of
17 America that the foregoing is true and correct.

18 Executed on the 27 day of September, 2019 at Santa Barbara, California.
19

20 
21 Bryan Fiebert